

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KPN B.V.

Plaintiff,

- against-

CORCYRA D.O.O.,  
KSD PACIFIC, LLC,  
MOSHE HAR ADIR, and  
YOSSI ATTIA

Defendants.  
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**REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF  
MOTION TO QUASH BY  
MOSHE HAR ADIR**

Civil Action No. 08 CV 1549 (JGK)

Pursuant to Federal Rules of Evidence Rule 201, Specially Appearing Defendant Moshe Har Adir request that the Court take judicial notice of the following documents in support of his Motion to Quash in the above-entitled matter, which was concurrently filed herewith.

EXHIBIT 1: Summons and alleged Declaration of Service as to Moshe Har Adir filed by Plaintiff in the above-entitled action on April 14, 2008.

EXHIBIT 2: Croatia Judicial Assistance from the U.S. Department of State website located at [http://travel.state.gov/law/info/judicial/judicial\\_695.html](http://travel.state.gov/law/info/judicial/judicial_695.html).

Dated: New York, New York  
May 30, 2008

KAUFMANN, FEINER, YAMIN,  
GILDIN & ROBBINS LLP  
Attorneys for Defendant Moshe Har Adir

By /s/ Kevin M. Shelley  
Kevin M. Shelley (KS8149)  
777 Third Avenue  
New York, New York 10017  
212.755.3100

and

ROBERT M. YASPAN (Pro Hac Vice Admission  
Pending)

JOSEPH G. McCARTY (Of Counsel) (Pro Hac  
Vice Admission Pending)

LAW OFFICES OF ROBERT M. YASPAN

21700 Oxnard Street, Suite 1750

Woodland Hills, California 91367

818.774.9929

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KPN B.V.,	:	
	:	
Plaintiff,	:	08 CV 1549 (JGK)
	:	
-against-	:	ECF CASE
	:	
CORCYRA D.O.O., KSD PACIFIC LLC,	:	
MOSHE HAR ADIR, and YOSSE ATTIA,	:	
	:	<u>DECLARATION OF SERVICE</u>
Defendants,	:	

-----X

KURT R. VELLEK hereby declares under penalty of perjury that:

1. I am over 18 years of age, not a party to this action, and reside in Mahopac, New York. I am employed by the law firm of Allen & Overy LLP and I am a licensed New York City process server. My license number is 826793.
2. On Friday, February 15, 2008 at approximately 4:50 p.m., I personally served the summons and complaint upon defendant Moshe Har Adir by his attorney Elliot H. Lutzker, at his offices at Philips Nizer LLP, 666 Fifth Avenue, 28th Floor, New York, New York.
3. The receptionist initially informed Mr. Lutzker over the phone that I was serving legal papers, but he refused to come to the reception area and directed the receptionist to refuse the papers as well. I informed her that the agreement specified that service needed to be made to Mr. Lutzker, and left the papers on the desk.
4. "Jane Doe", the receptionist on the 28th floor offices of Philips Nizer LLP, may be described as a white female in her early fifties with a medium build, with reddish brown hair, and wearing glasses.
5. Also, on February 19, 2008 I caused an additional copy of the summons and complaint to be served by overnight delivery upon Corcyra d.o.o. c/o Moshe Har Adir, to Verudela 17, Pula, Croatia 52100, pursuant to the agreement. Upon information and belief and according to the records of Federal Express, the package (tracking no. 798377910058) was never claimed.
6. In addition, on February 19, 2008 I caused an additional copy of the summons and complaint to be

served by overnight delivery upon Coreyra d.o.o. c/o Moshe Har Adir, to Valdabeckiput 118, Pula, Croatia 52100, pursuant to the agreement. Upon information and belief and according to the records of Federal Express, the package (tracking no. 798377922316) was never claimed.

Dated: March 31, 2008  
New York, New York

  
KURT R. VELLEK

FD-440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

KPN B.V.

SUMMONS IN A CIVIL ACTION

V.

CORCYRA D.O.O.,  
KSD PACIFIC, LLC,  
MOSHE HAR ADIR, and  
YOSSI ATTIA

CASE NUMBER:

08 CV 1549

JUDGE KOELTL

TO: (Name and address of Defendant)

Moshe Har Adir  
Valdabeci put 118 Pula Croatia 52100

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Allen & Overy LLP  
1221 Avenue of the Americas  
New York, NY 10020  
Attn: Jacob S. Pultman

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK

*Wanda Luntero*

DATE

FEB 14 2008

(By) DEPUTY CLERK

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Index No. 08 CV 1549

KEN B.V.

, Plaintiff(s)

- against -

CORCYRA D.O.O., KSD PACIFIC, LLC, MOSHE HAR ADIR, AND YOSSE ATTIA

, Defendant(s)

State of California

SS.:

County of Los Angeles

AFFIDAVIT OF SERVICE

Ignacio Gutierrez being duly sworn, deposes and says that he is over the age of 18 years; is not a party to this action and resides within the State of California. That on 03/10/2008 at 2:13 PM at:

164 N. STANLEY DRIVE  
BEVERLY HILLS CA 90069

Deponent served the:

SUMMONS IN A CIVIL ACTION AND COMPLAINT

upon MOSHE HAR ADIR,

by delivering a true copy to:

Jane Doe (refused last name), Person In Charge Of Premis  
who stated that they were authorized to accept service on behalf of:  
MOSHE HAR ADIR.

Within 20 days of such service, deponent enclosed a copy of same in a first class postpaid envelope properly addressed to recipient at:

MOSHE HAR ADIR  
164 N. STANLEY DRIVE  
BEVERLY HILLS CA 90069

and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within California State. The envelope bore the legend "PERSONAL & CONFIDENTIAL" and did not indicate by return address or otherwise that the communication was from an attorney or concerned an action against the recipient.

To the best of my knowledge, based on information and belief, the said recipient at the time of service was not engaged in the military service of the United States or California. Recipient wore ordinary civilian clothing and no military uniform.

Deponent describes the individual served as follows:

AGE: 42 HEIGHT: 5'6" WEIGHT: 135 HAIR: BLONDE RACE: WHITE SEX: FEMALE

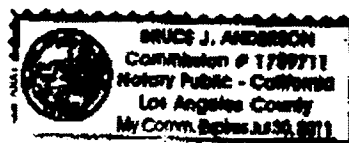
Ignacio Gutierrez

License #5066

SWORN TO BEFORE ME

April 11, 2008

OUR DOC# 20656  
Allen & Overy  
1221 Avenue of The Americas  
New York NY 10020  
646-344-6694



# EXHIBIT 2



## Croatia Judicial Assistance

**DISCLAIMER:** THE INFORMATION IN THIS CIRCULAR RELATING TO THE LEGAL REQUIREMENTS OF SPECIFIC FOREIGN COUNTRIES IS PROVIDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE TOTALLY ACCURATE IN A PARTICULAR CASE. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC FOREIGN LAWS SHOULD BE ADDRESSED TO FOREIGN COUNSEL.

**PROVISO:** This flyer seeks only to provide information; it is not an opinion on any aspect of U.S., foreign, or international law. The U.S. Department of State does not intend by the contents of this flyer to take a position on any aspect of any pending litigation .

### APPLICABLE TREATIES OR OTHER AGREEMENTS

The Vienna Convention on Consular Relations, 21 UST 77; 596 UNTS 261; TIAS 6820 (Article 5);

The Council of Europe Convention on the Transfer of Sentenced Persons

Hague Convention Abolishing the Requirements of Legalization of Foreign Public Documents

### SERVICE OF PROCESS

**General:** Croatia is not a party to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters. Service of process in Croatia can be accomplished by a variety of methods. If eventual enforcement of a U.S. judgment in the foreign country is foreseen, it may be prudent to consult local foreign legal counsel to ascertain if a particular method of service must be used for service to be considered valid in the foreign jurisdiction.

**Civil cases:** Service of process in civil cases in Croatia may be affected by international registered mail, letters rogatory or by personal service by an agent, generally a Croatian attorney. Lists of Croatian attorneys are available from the Department of State, Office of American Citizens Services or directly from the U.S. Embassy in Croatia. Proof of service would be in the form of an affidavit executed before a U.S. consular officer by the individual effecting service.

**Criminal cases :** In criminal cases letters rogatory are the only method by which service can be effected.

Please see the U. S. Department of State flyer *Service of Legal Documents Abroad* .

### SERVICE PURSUANT TO LETTERS ROGATORY

**Translations:** Letters rogatory must be translated into Croatian. The letters rogatory request should be addressed to the Croatian Foreign Ministry, which is charged with transferring the case to the Ministry of Justice. The Ministry of Justice will then transmit the letter rogatory to the pertinent court for action.

**Costs:** Effective February 1, 1998, there is a \$455.00 consular fee for services related to execution of a letter rogatory (See 22 CFR 22.1, item 67). Foreign authorities may also charge fees, therefore, counsel are requested to submit a certified bank check in the amount of \$500.00 payable to the U.S. Embassy Zagreb as a deposit against which the U.S. consular fee, and any foreign fees may be deducted. Unexpended funds will be refunded by the U.S. Embassy. Corporate or personal checks are not acceptable. There is no consular fee for letters rogatory on behalf of federal, state or local government officials. If more than one witness or person to be served is involved, multiple fees may be charged and additional deposits may be requested.

### OBTAINING EVIDENCE

Croatia is not a party to the Hague Evidence Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. Depositions may only be taken through letters rogatory in Croatia.

**COMPULSION OF EVIDENCE:** Testimony of an unwilling witness and other

evidence may be compelled in Croatia pursuant to a letter rogatory. Letters rogatory generally are transmitted through diplomatic channels. For further information about the letters rogatory process, see the Office of American Citizens Service's information flyer, "Preparation of Letters Rogatory". Requesting counsel should be aware that when letters rogatory are executed by foreign courts which compel the appearance of a witness to answer written interrogatories, the evidence is taken in accordance with the rules of the foreign court. In most cases an American attorney will not be permitted to participate in such a proceeding. Occasionally a foreign attorney may be permitted to attend such a proceeding and even to put forth additional questions to the witness. Not all foreign countries utilize the services of court reporters or routinely provide verbatim transcripts. Sometimes the presiding judge will dictate his recollection of the witness's responses to his secretary. Generally letters rogatory worldwide, including those sent to the United States, take from six months to a year to execute.

**AUTHENTICATION:** Croatia does not require authentication of letters rogatory by the Embassy of Croatia in the United States. However, in criminal cases, letters rogatory requesting evidence must be "legalized" with the Hague Convention apostille. See the flyer on the Hague Convention Abolishing the Requirements of Legislation of Foreign Public Documents.

**U.S. EMBASSY LOCATION :** U.S. Embassy, Consular Section, American Citizens Services,  
 Andrije Hebranga 2, Zagreb, Croatia  
 Tel: 385-1-455-55-00; Fax: 385-1-455-0774  
 Internet Address: <http://www.usembassy.hr>

**LISTS OF FOREIGN ATTORNEYS:** Lists of foreign attorneys willing to represent U.S. citizens have been prepared by the U.S. Embassy and may be obtained from the Department of State, Office of American Citizen Services or directly from the U.S. Embassy in Zagreb.

**Additional Information:** Many of our judicial assistance flyers are also available on the Internet via the Department of State, Bureau of Consular Affairs home page under Judicial Assistance . See also, the Department of State, Office of the Legal Adviser for Private International Law (L/PIL) home page for information about the work of the Hague Conference on Private International Law and the OAS in private international law unification. See also the home pages for many of our embassies.

**Treaty Databases on the Internet:** Information on which countries are party to a particular treaty is available from the following databases:

United States Department of State, Office of the Legal Adviser, Treaty Affairs , List of Treaties and Other International Agreements of the United States In Force:  
[http://www.state.gov/www/global/legal\\_affairs/tifindex.html](http://www.state.gov/www/global/legal_affairs/tifindex.html).

**United Nations (UN):** Databases/Treaties at <http://untreaty.un.org> ;

**Council of Europe (COE):** [www.coe.fr/index.asp](http://www.coe.fr/index.asp) under Texts/Treaties  
<http://conventions.coe.int/> ;

**Organization of American States (OAS):** <http://www.oas.org> under Documents/Treaties and Conventions.

**Questions:** For additional information, contact the appropriate geographic division of the Office of American Citizens Services and Crisis Management at telephone (202) 647-5226.

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